The Evolution of Antitrust Law in USA

Jonida Lamaj, Phd. Candidate
University Marin Barleti, Tirana, Albania

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Abstract

This Article analyzes the evolution of Antitrust Law (known as Competition Law in Europe) in United States of America. It is important to study the history of Antitrust Law in USA, because the roots and the origin of this important law and regulation that guarantee the economic rights and freedoms of persons and companies has started in USA, inherited from the Common Law system.

This Article is composed by 4 main components, such as: Introduction of Antitrust Law, History of Sherman Act, History of Clayton Act and The enforcement of Competition Law in USA. A greater attention is given to the Sherman Antitrust Act.

To better understand the Sherman Act, it is described the history path of the legalization of the act, reason why this act was implemented in USA, which were some challenges of the system at that time, how it is enforced, etc.? The same analogy is done with the Clayton Act and other amendments of Antitrust Acts.

At the end of the paper it is introduced the main tools that helps to function the Antitrust law in USA, by analyzing the role of Department of Justice Antitrust Division, the Federal Trade Commission and Exemptions and Immunities.

Keywords: Antitrust in USA, Sherman act, Clayton Act, Federal Trade Commission

Introduction of Antitrust Law

Antitrust emerged in the late nineteenth century as a response to the growth of the trusts and their power in the American economy. In that period, the prevailing ideology of government’s role in the economy was laissez faire, but it had recently been attacked by a variety of progressive social movements that advocated greater governmental intervention (Sidney Fine, 1956). The trusts and other social injustices, however, gave ammunition to reformers who sought to intervene in the market, often to redistribute wealth or limit private power in the interests of fairness.

Since the passage of the Sherman Act in 1890, antitrust law has always revolved around the core economic concepts of competition and market power. For over a century, it has been illegal in the United States for competitors to enter into price-fixing cartels and related schemes and for a monopolist to use its market power to stifle competition (Louis Kaplow, Carl Shapiro, 2007, pg.3). The Sherman Act did, however, create affirmative civil and criminal sanctions for antitrust violations, a radical step beyond the common law's passive refusals to enforce disfavored combinations and conspiracies.[61] The creation of positive remedies recognized the possibility not only of market imperfections, such as persistent private cartels and monopolies, but of effective, temporary governmental intervention to restore the market. Under a pure evolutionary vision, the self-correcting mechanisms of the market would break down private cartels and monopolies, except when government privileges protected them (Hans B. Thorelli, 1955, 164-225).

The Sherman Act, by prohibiting monopolization, but not monopoly, indicates a consciousness that the freedom of the individual right to contract is the most efficient means for the prevention of monopoly. Sherman Act Section 1, 15 U.S.C. § 1; Sherman Act Section 2, 15 U.S.C. § 2; and Clayton Act Section 7, 15 U.S.C. § 18, contains: the prohibit agreements in restraint of trade, the monopolization and attempts and conspiracies to monopolize, and the last mergers and acquisitions that may substantially lessen competition. With a few exceptions, that is all the statutory law one needs to know (Stephen Calkins, 2007).

Before we further with the evolution of competition law, it is necessary to introduce some relevant concepts that are the core elements in analyzing Antitrust, such as: Economic profit; Perfect competition; Market Power and Monopoly.

Economic profit is the excess of revenue over costs, where costs include compensation for risk taking and the opportunity cost of capital. This is not the same as accounting profit, which makes no attempt to include risk taking and lost opportunities as elements of total cost. A firm may be earning positive accounting profits and negative economic profits. This is why one cannot infer monopoly power simply from observing the profit report of a company (Keith N. Hylton, 2003, pg 9).

The fundamental results of the model of *perfect competition* is the following: In long run competitive equilibrium, firms earn zero economic profits. This happens because of the entry and exit. If Firms earn positive economic profits, then rivals will enter the market. Entry continues until the increase in supply pushes price down to a level that just compensates for the

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[61] CONG. REC. 2456 (1890) (remarks of Sen. Sherman).

cost of producing and the opportunity cost of capital and managerial skills. If firms earn negative economic profits, exit will occur until economics profits return to zero (Keith N. Hylton, 2003, pg 10).

The concept of *market power* is fundamental to antitrust economics and to the law. The notion of market power is frequently used as a screen: a firm (or group of firms) must be shown to have some level of market power as a prerequisite to considering whether the conduct in question gives rise to antitrust liability. As a result, antitrust investigations and adjudications devote substantial attention to whether or not the requisite market power exists. In rhetoric and often in reality, this legal approach of viewing market power as something either present or absent—a dichotomous classification—is at odds with the technical economic notion of market power as a matter of degree. This feature of antitrust law's use of a market power requirement is well illustrated by the law of monopolization (Louis Kaplow, Carl Shapiro, 2007). For a better understanding, a *monopolist* is a single supplier of a good. However, this definition is too simple, because it includes firms that become dominant by being the lowest-cost competitor and those that obtain an exclusive franchise from the state. The crucial feature of monopoly status is the absence of competition from other firms (Keith N. Hylton, 2003, pg 1).

Competition policy played a starring role in the 1912 presidential campaign, leading to the election of Woodrow Wilson and the enactment in 1914 of the Clayton Act, 15 U.S.C. § 12 et seq., and the Federal Trade Commission Act, 15 U.S.C. § 41 et seq. The Clayton Act provided for private enforcement of the antitrust laws and substantively addressed price discrimination (Section 2), tying and exclusive dealing (Section 3), mergers and acquisitions (Section 7), and interlocking directorates (Section 8). The most important of those provisions today are Section 7 (as amended in 1950 by the Celler-Kefauver Act, through which Congress expressed concern about increasing concentration), and Section 2 (as amended in 1936 by the Robinson-Patman Act). The Federal Trade Commission Act created a new, independent agency and charged it with preventing "unfair methods of competition" and, thanks to a 1938 amendment, "unfair or deceptive acts or practices" (Stephen Calkins, 2007, pg 5). The Clayton act declared the following acts illegal, but not criminal; 1- price discrimination (section 2); 2- tying and exclusive dealing contracts (section 3); 3-corporate mergers that tend to result in monopoly (section 7) and 4- interlocking directorates that is common board members among competing companies (section 8), (Keith N. Hylton, 2003, pg 30).

The Clayton Act and Federal Trade Commission Acts of 1914 are easier to explain than the Sherman Act. They were both a response to the decision of the Supreme Court in Standards Oil Co. v. United States, that the

Sherman act condemned only unreasonable restrains of trade (Keith N. Hylton, 2003, pg 39).

In the mid-1970s, another evolutionary approach, the Chicago School, began to influence law and policy (William H. Page, 2008). Beginning in the 1950s, the Director of the University of Chicago Law School began to articulate a sweeping critique of antitrust law that eventually influenced the writings of numerous scholars associated with Chicago (Aaron Director, Edward H. Levi, 1956). The Chicago critique applied neoclassical economics, which in turn rested on the evolutionary vision of the market as a locus of value-maximizing exchange. The Chicago approach thus formalized many of the intuitions of the judges of the formative period, focusing the analysis on the effects of practices on output in the market rather than on trader freedom. The critique grew to encompass a shared set of models of practices such as tying arrangements, vertical integration, cartels, resale price maintenance, and predatory pricing. These models, when paired with the empirical assumptions of the evolutionary vision, tended to suggest that practices like vertical restraints and predatory pricing were rarely anticompetitive. Consequently, Chicago scholars recommended abolishing many per se rules and refocusing antitrust primarily on cartels (Ward S. Bowman, 1973).

Both Chicago scholars and their critics have attempted to describe the essence of the Chicago approach. Three features of the Chicago approach are: The development of the approach within an identifiable research tradition; the centrality of a set of accepted applications of theory to specific antitrust practices; and the importance of the relationship between positive analysis of economic behavior and normative recommendations for legal treatment of that behavior (William H. Page, 1989, pg 1229).

More important in defining the Chicago antirust paradigm are the specific analyses of antitrust practices. The approach has developed through the extension of the insights of those concrete applications to analogous antitrust issues (William H. Page, 1989, pg 1231).

The models adapt the assumption of maximizing behavior to the special circumstances of antitrust practices. They assume that firms engage in practices for gain, whether in the form of monopoly profits or increased productivity. The general theory indicates that firms may gain monopoly profits in two ways: by eliminating competition among themselves by agreement, or by excluding other competitors from the market (William H. Page, 1989, pg 1233). The Chicago models recognize, however that agreements among competitors may reduce costs (William H. Page, 1989, pg 1235).

Although a post–Chicago School for antitrust has developed over the past decade, antitrust, “has to a great extent been normalized, domesticated.”

The federal agencies' antitrust enforcement is still largely shaped by the Chicago School's rational choice theories. These theories are applied to various conducts, such as vertical restraints, conduct by a monopolist, and tying. The Court's view on monopolies, on the other hand, was much more forgiving. Indeed, monopolies and the charging of monopoly prices were surmised as "an important element of the free-market system", (Maurice E. Stucke, 2007, Pg 30).

A former Assistant Attorney General in charge of the Department of Justice's Antitrust Division cited this language in support of an enforcement hierarchy, consistent with the Chicago School's antitrust theories: government enforcers would focus primarily on cartel behavior, followed by mergers, and lastly monopolies. This third priority's focus was not in prosecuting monopolies, but rather in developing and promoting objective standards to judge monopoly behavior, so as not to chill pro-competitive behavior and prevent monopolists from reaping the rewards of their success. Some antitrust commentators have argued that section 5 of the Federal Trade Commission Act involving "unfair methods of competition" has been watered down to the economic consumer welfare standard endorsed by the Chicago School (Maurice E. Stucke, 2007, Pg 31).

History of Sherman Act

The Sherman Act was fashioned of materials borrowed from the common law, the body of judicial decisions that the U.S. inherited from England. But the common law did not always defend freedom of trade & abhor monopoly. American common law contained precedents in which the framers of the Sherman Act could find a certain amount of hope. The Sherman Act was passed in response to public demand. The American public, schooled in a long tradition of opposing special privileges of every sort and in an old habit of calling all such privileges "monopoly", began to protest sharply against the "trust", that grow steadily more numerous after 1885 (William Letwin, 1965, Pg 15).

The first extended public deliberations about enacting competition policy as positive law in America occurred around the Sherman Act debates between 1888 and 1890.

For two decades following passage of the Sherman Antitrust Act, cases calling for interpretation of the statute divided the Supreme Court into warring factions (Rudolph Peritz, 1996, pg 9).

The interest in general regulation emerged at a time of growing tensions between rule and exception, between ideology and actuality. New economic conditions called into question the assumptions underlying classical political economy (Rudolph Peritz, 1996, pg 11).

With much debate and shifting the Congress passed the Sherman Act as a tentative experimental effort to express such a policy with the use of common law categories (William Letwin, 1965, Pg 16). In dealing with the cases, judges saw many defects in the drafting of the Sherman Act. Dissatisfied with some effects of the Sherman Act and hoping to modify it they pressed for establishment of a regulatory system in which expert administration would replace the sporadic and unpredictable rulings of courts. (William Letwin, 1965, Pg 17). These desires, forwarded by the proclamation of the Rule of Reason and the powerful leadership of President Wilson, brought forth the Clayton Antitrust Act and the Federal Trade Commission Act (William Letwin, 1965, Pg 17).

Interpreting the Sherman Act at an early stage

On January 21, 1888, early in the first session of the fiftieth congress, congressman Henry Bacon (DNY) introduced a resolution to direct the House Committee on manufactures to investigate trust in several industries and to recommend suitable legislation. On July 30 the house committee on manufactures issued an interim report. Within two weeks, John Sherman (Ohio) and several other senators introduced antitrust bills. A month later committee chairman Sherman reported to the full senate his Antitrust bill, with the following operative language: “that all arrangements, contracts, agreements, trusts, or combinations…made with a view, or which tend to prevent full and free competition….or which tend to advance the cost to the consumer….are hereby declared to be against public policy, unlawful and void”, (Rudolph Peritz, 1996, pg 13).

Later on the Judiciary Committee’s new bill replaced Senator Sherman’s 1888 language of “full and free competition” and “cost to the consumers” with the common law language of contract….in restraint of trade” and “monopolize, or attempt to monopolize trade”. Senator Sherman began the debate about his bill to secure “full and fair competition” with the familiar themes of industrial liberty and consumerism (Rudolph Peritz, 1996, pg 16).

The conflicting views of industrial liberty expressed in the debates can be understood in two ways. First, “liberty” was taken to mean both freedom from government power and freedom from market power. Can also be understood in a second way, one toward liberty and the other toward equality (Rudolph Peritz, 1996, pg 17). In short, freedom of contract protected “fair profit” or fair return”, an important social value threatened by the ravages of competition (Rudolph Peritz, 1996, pg 18).

The 1890 bill replaced the old language of “full and free competition” and “cost to the consumer” with the common law language of “restraint of trade” and “monopolization”. The new bill included civil and criminal remedies lying for outside the common law's contract framework (Rudolph Peritz, 1996, pg 20).

The first section of the act declared illegal: "every contract, combination… or conspiracy, in restraint of trade…..". Congress had intended by this concise formula to outlaw three sorts of agreement, each having a proper common –law name: contracts in restraint of trade, combinations in restraint of trade, and conspiracies in restraint of trade. The world "every" created doubts, for it could be taken to mean that the act went beyond the common law, which did not forbid "every" restraint of trade but only "unreasonable" restraints (William Letwin, 1965, Pg 144).

As the first effort to control the economy at large, the Sherman antitrust law posed special problems for judges. Antitrust cases required more thorough and delicate analysis of economic issues than had ever been needed in resolving questions under the older branches of law. The greatest difficulty is to determine the facts of a case as to discover the meaning of the state. However, it is surprising that the courts were able, in less than a decade, to formulate the fundamental rules of law that have since governed that statute's application (William Letwin, 1965, Pg 143).

The Sherman act has often been blamed on the supposed vagueness of its language, which presumably gives judges too much leeway to intrude personal opinion into their interpretations. A judge ought not, we say, to change the law very much- though inevitably he changes it a little- when he interprets it (William Letwin, 1965, Pg 279).

Another proposed of making antitrust law more certain and predictable is to turn it over to a regulatory commission, thus by-passing the judges. They can diverge from strict standards of evidence and proof. Not being strictly bound by precedent they can make new rules as occasion calls for them. They can in short do everything, that the legislative, executive and judiciary can do and more (William Letwin, 1965, Pg 280).

What led to the Sherman act 1890?

On July 2, 1890, Congress passed the Sherman Act and in so doing created a baseline for the control of competition in the United States. To the modern eye, the Sherman Act is notable for its simultaneous brevity and comprehensiveness (Dennis W. Carlton, Randal C. Picker, 2006). One can take either a "public interest" or public choice" view of the enactment of the Sherman Act. The public interest view holds that congress was sincerely trying to do something to bring monopolies under control, to inject more competition into the economy, and to reassert the value of the individual consumer over that of the large conglomerate firm. The public choice view suggests that legislators used the Sherman act in an effort to keep themselves in office (Keith N. Hylton, 2003, pg 37).

Several things came together in the late 1800s. many individuals, including legislators, considered the railroads and the trusts (Standard Oil, American Tabaco) too powerful. The transportation and communication revolutions of the middle 1800s led to large business, which created jobs but also destroyed many through business expansion. Congress received numerous petitions to put the trusts and the railroads under the regulation of the federal government (Keith N. Hylton, 2003, pg 38).

However, because the legislative process is influenced by special interests, it is worthwhile to at least consider alternative assessments of the motivations of Congress in 1890. The cynical view is that the Sherman Act was a harmless way of appeasing public demands for regulation, and at the same time allowing members of Congress to garner support for and deflect criticism regarding the protective tariff legislation (Keith N. Hylton, 2003, pg 38).

What led to Clayton Antitrust Act 1914?

The Clayton Antitrust Act is an amendment passed by U.S. Congress in 1914 that provides further classification and substance to the Sherman Antitrust Act of 1890 on topics such as price discrimination, price fixing and unfair business practices.

The Acts are enforced by the Federal Trade Commission (FTC) and the Antitrust Division of the U.S. Department of Justice (DOJ).

In 1914, Henry De Lamar Clayton of Alabama introduced the Clayton Antitrust Bill to regulate massive corporations. The bill passed the House of Representatives with a wide majority on June 5, 1914. President Woodrow Wilson Signed the initiative into law on October 15, 1914.

As of 2016, the Clayton Antitrust Act has 26 sections. The 2 section handles the unlawfulness of price discrimination, price cutting and predatory pricing. The 3 section addresses exclusive dealings or the attempt to create a monopoly. The 4 section takes the right of private lawsuits of any individual injured by anything forbidden in the antitrust laws (www.investopedia.com/terms/c/clayton-antitrust-act.asp). The 6 section handles labor and exemption of the workforce. The 7 section handles mergers and acquisitions and is often referred to when multiple companies attempt to become one entity.

The Sherman Antitrust Act was the first Act to prohibit trusts and outlaw monopolistic business practices. However the vague language of the bill allowed business to continue engaging in operations that discouraged competition and fair pricing. While the Sherman Antitrust act made monopolies illegal, the Clayton Antitrust Act banned operations conducive to the formation of monopolies.

The Clayton Antitrust Act was later amended by the Robinson Patman Act of 1936 and the Celler Kefauver Act of 1950. The Robinson Patman Act reinforced laws against price discrimination among customers. The Celler Kefauver Act prohibited the transfer of assets or equity if an acquisition reduced competition (www.investopedia.com/terms/c/clayton-antitrust-act.asp).

Enforcement of Competition Law

With the 1914 legislation, the key institutional features that still dominate U.S. antitrust law were established: the Sherman Act, the Clayton Act, and the Federal Trade Commission Act. The balance between antitrust and regulation still had to be worked out (Dennis W. Carlton, Randal C. Picker, 2006, pg 22). U.S. antitrust lawyers, usually worry about only three statutory provisions: Sherman Act Section 1, 15 U.S.C. § 1; Sherman Act Section 2, 15 U.S.C. § 2; and Clayton Act Section 7, 15 U.S.C. § The first prohibits agreements in restraint of trade, the second monopolization and attempts and conspiracies to monopolize, and the last mergers and acquisitions that may substantially lessen competition. These few important statutory provisions are easy to note but answer few questions (Stephen Calkins, 2007)

Firms engaging in an anticompetitive practice could find themselves sued by one or more of the Antitrust Division, the Federal Trade Commission (FTC), any of 51 state attorneys general (counting the District of Columbia), or lawyers representing individual or classes of customers, competitors, suppliers, or possibly other injured private parties. Consequences could include criminal penalties (including incarceration and massive fines), injunctions, treble damages, and, in rare cases, disgorgement or consumer redress (Stephen Calkins, 2007, pg 7).

Department of Justice Antitrust Division

The Antitrust Division is headed by an Assistant Attorney General (AAG) nominated by the President and confirmed by the Senate. The AAG is frequently someone appointed directly or indirectly from the private sector who serves typically for two or three years. The AAG is supported by several Deputy Assistant Attorneys General, two Directors of Enforcement (one for criminal enforcement, one for economics), and a Director of Operations. The work of the Division is done in a dozen “sections,” each headed by a Chief. The crown jewel of the Division’s work is its cartel program. This is extremely serious prosecutions because price fixing and related offenses such as bid rigging are felonies, and full Constitutional protections apply. Criminal enforcement tools, such as search warrants and electronic surveillance, are regularly used. Grand juries collect evidence and vote indictments, and conviction can result in draconian penalties. Those penalties have increased steadily over time and are supplemented by penalties for obstruction of justice, perjury, and mail and wire fraud. Since May 1999, more than 100 individuals (at least 20 of them foreign nationals) have been sent to jail. Since fiscal 1997, more than $3 billion in criminal fines have been imposed—and the 2004 increase in fines has only just taken effect (Stephen Calkins, 2007, pg 8).

The Federal Trade Commission

In 1914, Congress, dissatisfied with the course of competition enforcement during the first two decades, supplemented the Justice Department's role by creating the Federal Trade Commission. The vision for the FTC was as a guide to business, pointing the way toward fair methods of competition. From the start it was a collective body, with five commissioners nominated by the President and confirmed by the Senate. Whereas the Justice Department could invoke the power of criminal penalties, the Commission was limited to ordering firms to cease engaging in what were found to be "unfair methods of competition"—without any penalty being imposed (Stephen Calkins, 2007, pg 9).

Commissions typically are small and are controlled by the party of the President; the President also chooses the chair of the commission. Turnover of the presidency means turnover of the Commission. In contrast, the federal courts are quite stable over time, but are subject to very little control at any point in time. But the sheer number of judges means that two contemporaneous decisions may reach quite different outcomes (Dennis W. Carlton, Randal C. Picker, 2006). The classic FTC case involves administrative adjudication. The Commission has broad powers to order pre-complaint investigations. When a majority of the Commission has "reason to believe" that a firm (called a "respondent") is engaging in an "unfair method of competition," the Commission issues a complaint. There after a trial is held before an Administrative Law Judge, who issues an opinion that is inevitably appealed (by one side or the other, or both) to the full Commission. The Commission typically hears oral argument and issues an opinion and final order. If it is adverse to the respondent, the respondent may appeal to its choice of almost any court of appeals. 15 U.S.C. § 45(c). Although that is the classic procedure, it little accords with modern practice. Most FTC competition law cases are settled by consent orders. A majority of the FTC's competition cases involve mergers and acquisitions (Stephen Calkins, 2007, pg 10).

When many parts in the economic system need to move at the same time, it may be very hard for lower federal courts to coordinate decision-making, and Supreme Court decisions are rare and slow to come. The inefficiency in a network industry of having uncoordinated decision-making could be very high. Courts are passive when it comes to agenda setting: they can only decide the cases that come before them. In contrast, agencies expressly control their own agendas, subject to the original statute to be sure, but tied down often by nothing more than a public interest standard. The ability to set agendas means that agencies can push forward on all parts of the economic system at the same time.

Agencies can do punctuated equilibrium: leaps from one spot to another, while courts are normally limited to smaller moves within established frameworks. Our logic predicts that as policy concerns with competition arise in particular industries, all else being equal, network industries are more likely than non-network industries to see their competition regulated by agencies, rather than the courts (Dennis W. Carlton, Randal C. Picker, 2006, pg 9).

Exemptions and Immunities

Unfortunately, there is a very long list of exemptions and immunities from the U.S. antitrust laws. Some provide complete immunity; some partial (for instance, reduction of damages from treble to single); some theoretically none, except to the extent that entrusting enforcement to a regulatory body rather than the antitrust agencies inevitably reduces the primacy of competition values. Some are statutory, some judge-made. Other than with respect to the difficulty of eliminating exemptions, generalizations are challenging. Statutory exemptions include ones for agricultural cooperatives, insurance, labor, sports broadcasting, and various forms of communication, energy, and transportation. The most important court-made exemptions are those for petitioning government (known as the *Noerr-Pennington* doctrine), and for government action itself and the results thereof (known as the state action doctrine). Both doctrines are complicated and controversial, are frequent subjects of litigation (including at the Supreme Court), and regularly receive special attention from the antitrust agencies (Stephen Calkins, 2007, pg 36).

Conclusion

This paper tries to inform the young researchers and the law students about the evolution of competition law in USA. It is very important to start from the Common Law legislation and the path of Antitrust Law in USA because these are the roots of the Competition Law that has inspired the modern legislation all over the world, especially in Europe.

This research starts with Sherman Act that was passed in Congress in 1980, the first challenges, additional changes and how this act can be improved from what was missing. The next action was the Clayton Act that was passed in 1914 as a better version of the Antitrust Law.

The Clayton Antitrust Act was later amended by the Robinson Patman Act of 1936 and the Celler Kefauver Act of 1950. The Robinson Patman Act reinforced laws against price discrimination among customers. The Celler Kefauver Act prohibited the transfer of assets or equity if an acquisition reduced competition (www.investopedia.com/terms/c/clayton-antitrust-act.asp).

In this paper is also discussed the enforcement of the Antitrust Law and the main bodies, the Department of Justice Antitrust Division and The Federal Trade Commission.

References:

1. Aaron Director, Edward H. Levi. (1956). Law and the Future: Trade Regulation. 51 Northwestern University Law, Review 281.
2. Dennis W. Carlton, Randal C. Picker. (2006). Antitrust and Regulation. The Law School, University of Chicago. Olin Working Paper No. 312. SSRN937020
3. Hans B. Thorelli. (1955). The federal antitrust policy: Origination of an American tradition. 164-225.
4. Keith N. Hylton. (2003). Antitrust Law: Economic theory and common law evolution. Cambridge University Press. ISBN 0521793785.
5. Louis Kaplow, Carl Shapiro. (2007). Antitrust. Discussion Paper No. 575. Harvard Law School Cambridge, MA. ISSN 1045-6333
6. Maurice E. Stucke. (2007). Behavioral Economists at the Gate: Antitrust in the 21st Century. SSRN981530.
7. Rudolph Peritz. (1996). Cometition Policy in America. History, Rhetoric, Law. Oxford University Press.
8. Sidney Fine. (1956). Laissez Faire and the general-welfare state: a study of conflict in American thought. 1865-1901.
9. Stephen Calkins. (2007). Competition Law in the United States of America. Wayne State University Law School Legal Studies Research Paper Series No. 07-14. SSRN978787
10. Ward S. Bowman. (1973). Patent and Antitrust Law: A legal and economic appraisal. 164 n.7.
11. William H. Page. (1989). The Chicago School and the evolution of antitrust: characterization, antitrust, injury and evidentiary sufficiency. Virginia Law review, volume 75, number 7.

12. William H. Page.(2008). The ideological origins and evolution of U.S. Antitrust Law. Issues in Competition Law and Policy, Vol. 1, No. 1, ABA Section of Antitrust Law.
13. William Letwin. (1965). Law & Economic Policy in America. The evolution of the Sherman Antitrust Act. The University of Chicago Press, Chicago & London. ISBN0226473538.
14. www.investopedia.com/terms/c/clayton-antitrust-act.asp